



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In Re Application of: Michael Rocheleau)
Patent Application No.: 10/823,299)
Filing Date: April 13, 2004)
For: STEP AIR FOIL)

DECLARATION OF AMELIA C. HERRMANN

I, Amelia C. Herrmann, hereby declare that:

1) I am the Patent Clerk/Legal Secretary of the Sequa Corporation ("SEQUA"), Patent Department, reporting to Mitchell D. Bittman, the Patent Counsel and Director of Intellectual Property of Sequa Corporation.

2) I have been employed by SEQUA as Patent Clerk/Legal Secretary from July 1985 until August 1993 and from May 2006 to present.

3) In my position as Patent Clerk, it has been my responsibility to maintain the manual docketing system at SEQUA. Mr. Bittman trained me in this position and in use of this system. This system has worked well over the years I have been a Patent Clerk and until now.

4) There are only two persons who worked with our docket system, between November 2006 and present, namely Mr. Bittman and myself. If I have been out of the office for some days while serving as Patent Clerk, the docketing system would await my return. Mr. Bittman may have performed some functions with the system, but working with it was principally my responsibility.

5) To my knowledge, no other person aside from Mr. Bittman and me uses or works with SEQUA's docketing system, and no one would have access to or reason to add to or remove materials from the docketing system.

6) SEQUA's U.S. Patent Application Office Action docketing system has for decades used a docket card system in which Official Actions are arranged in chronological order of the due dates of the Office Action. When an Official Action is received for any subsidiary or division of SEQUA, the following steps are taken by me: 1) the Official Action is noted on the docket card with the due date for response marked in pencil in the lower right corner of the docket card and the Official Action is noted on the jacket file of the application; 2) the file, Official Action and docket card are then forwarded to Mr. Bittman for review; 3) the docket card is placed into the current docket file of the docket card system in a sequence according to the due date; and 4) a Notice of Allowance letter is sent to the business group or division requesting their permission to issue the patent and pay the fee then due; and 6) at least once each month the current docket file of the file card system is checked for responses due.

7) The foregoing Patent Office Communication procedures were written in instructions in an instruction binder kept in the desk of the Patent Clerk. The instructions binder had details of procedures for operation of the Patent Department at SEQUA. A Copy of the Patent Office Communication instructions which were in the binder since before November 2006 and to date is attached as Exhibit A.


8) In my experience, since 1987, the SEQUA docketing system has worked well and relying on it, SEQUA has reliably handled hundreds of U.S. Patents and Applications without missing Issue Fee due dates.

9) With regard to the subject Application, I do not believe that the Notice of Allowance and Issue Fee due was received by our office. The docket card for this application, attached as Exhibit B contains no notation of receipt of the Notice of Allowance and Issue Fee due for the subject application. Nor is there any notation on the application jacket file, copy attached as Exhibit C. I searched through the file folder for the subject application, but did not discover the subject Notice of Allowance and issue Fee Due in any other location in the folder. I do not remember receiving the Notice of Allowance and Issue Fee Due for the subject patent application.

10) Because of the way records are placed in and retained in the docket card system and the absence of any correspondence or notations in the application file binder and docket cards, I believe that the Notice of Allowance and Issue Fee Due for the subject patent application was not received. As the due date for the Issue Fee of the subject patent application was not in the current docket file, I was unaware that the fee for the subject patent application was due. The Issue Fee on the patent application was unavoidably not paid.

The declarant further states that the above statement was made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and such willful false statement may jeopardize the reinstatement of and validity of Patent Application 10/823,299.

Dated: August 14, 2007


Amelia C. Herrmann



PATENT OFFICE COMMUNICATIONS

Pending Patent Applications

1. Rejection from office - note on docket card, file jacket and monthly report
2. Record all office actions on jacket file/docket card and file any papers in the file
3. Write a letter regarding office action to the appropriate people
4. Note for Monthly Report

Final Action

This is an office action received from the Patent Office Examiner

- Always note on the docket card and monthly when the Office Action is a Final Office Action
- The date of response due on a Final Action does not change, even once a response to this action is filed (note on docket card a response due date of 3 months)
 - A possible Appeal Brief and Extension of Time* may occur
- The Examiner will reply to your response with one of two possible answers; a Notice of Allowance or a Rejection (the date of this action does not change the original date of reply to the final action - the final action will always stay the same as the first response date).
- In answer to the Examiner's rejection you can submit a Notice of Appeal form which give you a two month response date from the date the Notice of Appeal is filed. A Notice of Appeal form must be followed with an actual Appeal Brief sometime within this two month responsive due date allowed.

- * **In many cases an Extension of Time on a Final Action is submitted and granted.**

Terminal Disclaimer (For CIP cases/previous but separate cases on related matters)

Terminal Disclaimers are filed to state that the application or patent will end on the same time/duration period as it's previous case.

PATENT OFFICE COMMUNICATIONS (continued)

Notice of Allowance/Issue Fee Due

1. Write a memo regarding office action to the appropriate people (NOTALLOW.FMT) and send along with Allowed Claim 1 from the invention
2. Note appropriate due date (@ 3 month) on docket card and place in the current docket file
3. Note on Monthly Report
4. If there is no opposition, make a check requisition for the issue fee amount.
5. Mail back completed PTO forms along with the check and a return receipt postcard and place the docket card back in the regular docket file.

Duty of Disclosure

Any references or information received by the Applicant(s) in regard to a patent/trademark of which the patent office should be aware.

APPLICANT

MT-136

FILED

4/13/04

SER. NO.

10/82329

Exhibit B

Step Air Foil

TITLE

M. Rocheleau

SOLICITOR

ADDRESS

ACTIONS

AMENDED

6/3/04

Info Disclosure Stmt.

6/24/04

Notice To file Missing Parts

6/28/04

Assignment & Dedication

2/25/05

O.A.

6/20/05

Reply

8/9/05

O.A.

10/14/05

Amendment After Trial

ALLOWED

PAT. ISSUED

SHEETS DWGS.

CHG. FOR APP.

FINAL FEE PAID

PATENT NO.

ORDER BOOK NO.

COST FOR DWGS.

MT-136

10/823299

PAGE NO.

(F. 4/13/04)

REFERENCES CITED

10/9/05 - Advisory Action

11/28/05 Amendment & RCE Request

11/13/06 O.A.

3/24/06 Amendment

5/10/06 Final O.A.

8/03/06 Amended After Trial (Resp to O.A.)

9/7 Continued Examination & Est. of time

3/6/07 Notice of Aband REMARKS

4/13/07 Petition to Revive

8/06/07 O.A. - Decision on Petition

MT-136

Patent No.	Dutch, British, French, German App. No.		Filed	Country	Docket Number
Patent Date	Serial Number	Inventor			
Corresponding U. S.-Canadian Docket	10/823599	MICHAEL ROCHELEAU			
	Application Filed	Title			
	4/13/04	STEP AIR FOIL			
Final Fee	NOTE:				

ACTIONS — AMENDMENTS

- 1 6/3/04 Draft Declaration Sent
- 2 6/24/04 Notice to the Managing Pts
- 3 6/28/04 Answer to Declaration
- 4 2/25/05 O. A.
- 5 6/22/05 Reply
- 6 10/14/05 Amendment After first
- 7 11/9/05 Adversary Action
- 8 11/28/05 Amendment to RCE Request
- 9 11/13/06 O. A.
- 10 3/24/06 Amendment
- 11 5/10/06 Office Action
- 12 8/10/06 Amendment After Final
- 13 9/10/06 Continued Examination - City Time
- 14 3/26/07 Notice of Appeal
- 15 4/10/07 Petition to Revoke

ACTIONS — AMENDMENTS

- 16 8/16/07 O. A. - Decision on Petition
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